

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

May 11, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICHOLAS ERIC SCHOTT,

Defendant.

No. 4:19-CR-06066-SAB-1

ORDER GRANTING
DEFENDANT'S MOTION TO
EXPEDITE AND MOTION FOR
RELEASE FOLLOWING
COMPLETION OF INPATIENT
TREATMENT AND SETTING
CONDITIONS OF RELEASE

ECF Nos. 35, 36

On May 8, 2020, the Court held a hearing on Defendant's Motion for Release Following Completion of Inpatient Treatment, ECF No. 35, and Motion to Expedite. ECF No. 36. Pursuant to General Order 20-101-3 and the CARES Act, Pub. L. No. 116-136 (H.R. 748) (eff. March 27, 2020), the Court found that video conferencing was not reasonably available for Defendant. With his consent, Defendant participated by phone represented by court-appointed counsel Michael Lynch, who appeared by video. Assistant United States Attorney Benjamin Seal represented the United States by video.

1 On January 29, 2020, the Court granted in part Defendant's Motion to
2 Reopen Detention, ECF No. 24, and ordered he be released directly to an inpatient
3 treatment facility for cooccurring mental health and substance abuse treatment.
4 ECF No. 27. The Court set the instant hearing to discuss the results of Defendant's
5 treatment and review Defendant's proposed release plan. *Id.* at 2-3.

6 Defendant has completed the majority of a 90-day cooccurring inpatient
7 treatment program and is scheduled to be discharged on Tuesday, May 12, 2020.
8 Representatives of the treatment facility confirmed that Defendant has satisfied all
9 the requirements of inpatient treatment; reported that Defendant fully participated
10 in all aspects of the program and assumed voluntary leadership roles; and
11 confirmed his discharge plan, which includes clean and sober housing and
12 intensive outpatient substance abuse treatment and mental health treatment.
13 Specifically, Defendant proposes being released directly to an Oxford House in the
14 Tri-Cities, in which he has secured and reserved a room. His mother confirmed
15 that she will help finance his rent. Over the United States' objection, the Court
16 granted Defendant's motion for release following his discharge from inpatient
17 treatment on the conditions set forth below.

18 Accordingly; **IT IS HEREBY ORDERED:**

19 1. Defendant's Motion to Expedite (ECF No. 36) is **GRANTED**.
20

1 2. Defendant's Motion to Release Following Completion of Inpatient
2 Treatment (**ECF No. 35**) is **GRANTED**. Following his discharge from the
3 treatment facility on Tuesday, May 12, 2020, an ABHS representative will
4 transport Defendant to Richland, where he will report to Probation for
5 installation of the GPS location monitoring device and further instructions.

6 3. If a party desires this Court to reconsider conditions of release
7 because of material and newly discovered circumstances under 18 U.S.C. §
8 3142(f), that party shall file a motion with the Court, served upon the United States
9 Attorney, stating what circumstances are new, how they are established, and the
10 requested change in conditions of release.

11 4. If a party seeks review of this Order by another court pursuant to 18
12 U.S.C. § 3145(a), counsel shall adhere to the Detention Order Review Protocol
13 found in LCrR 46(k).

14 5. Defendant shall abide by the following conditions at all times:

15 **STANDARD CONDITIONS OF RELEASE**

16 1. Defendant shall not commit any offense in violation of federal, state
17 or local law. Defendant shall advise the supervising Pretrial Services Officer and
18 defense counsel within one business day of any charge, arrest, or contact with law
19 enforcement. Defendant shall not work for the United States government or any
20

1 federal or state law enforcement agency, unless Defendant first notifies the
2 supervising Pretrial Services Officer in the captioned matter.

3 2. Defendant shall immediately advise the Court and the United States
4 Attorney in writing before any change in address.

5 3. Defendant shall appear at all proceedings and surrender as directed for
6 service of any sentence imposed.

7 4. Defendant shall sign and complete form A.O. 199C before being
8 released and shall reside at the address furnished.

9 5. Defendant shall not possess a firearm, destructive device or any
10 dangerous weapons.

11 6. Defendant shall report to the U.S. Probation/Pretrial Services Office
12 before or immediately after release and shall report as often as they direct, at such
13 times and in such manner as they direct.

14 7. Defendant shall contact defense counsel at least once a week.

15 8. Defendant is further advised it is unlawful for any person who is
16 under indictment for a crime punishable by imprisonment for a term exceeding one
17 year, to receive, ship or transport in interstate or foreign commerce any firearm or
18 ammunition or receive any firearm or ammunition which has been shipped or
19 transported in interstate or foreign commerce.
20

1 9. Defendant shall refrain from use or unlawful possession of a narcotic
2 drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed
3 by a licensed medical practitioner in conformance with Federal law. Defendant
4 may not use or possess marijuana, regardless of whether Defendant has been
5 authorized medical marijuana under state law.

6 10. Defendant shall surrender any passport to Pretrial Services and shall
7 not apply for a new passport.

8 **SPECIAL CONDITIONS OF RELEASE**

9 1. Defendant shall remain in the Eastern District of Washington unless
10 given permission by the United States Probation/Pretrial Services Office.

11 2. Defendant shall notify the United States Probation/Pretrial Services
12 Office within 24 hours of any change in address, telephone number, or
13 employment.

14 3. Defendant shall avoid all contact, direct or indirect, with any persons
15 who Defendant would reasonably know are or may become a victim or potential
16 witness in the subject investigation or prosecution.

17 4. Defendant shall submit to a mental health evaluation and undergo any
18 recommended treatment as directed by the United States Probation/Pretrial
19 Services Office. Prior to commencing any evaluation or treatment program,
20 Defendant shall provide waivers of confidentiality permitting the United States

1 Probation/Pretrial Services Office and the treatment provider to exchange without
2 qualification, in any form and at any time, any and all information or records
3 related to Defendant's conditions of release and supervision, and evaluation,
4 treatment, and performance in the program. It shall be the responsibility of defense
5 counsel to provide such waivers.

6 5. Defendant shall submit to a substance abuse evaluation and undergo
7 any recommended substance abuse treatment as directed by the United States
8 Probation/Pretrial Services Office. Prior to commencing any evaluation or
9 treatment program, Defendant shall provide waivers of confidentiality permitting
10 the United States Probation/Pretrial services office and the treatment provider to
11 exchange without qualification, in any form and at any time, any and all
12 information or records related to Defendant's conditions of release and
13 supervision, and evaluation, treatment, and performance in the program. It shall be
14 the responsibility of defense counsel to provide such waivers.

15 6. Defendant shall abstain totally from the use of alcohol.

16 7. Defendant shall submit to random sweat patch testing, as directed by
17 the United States Probation/Pretrial Services Office. Once random urinalysis and
18 breathalyzer testing can resume, Defendant shall submit to random urinalysis and
19 breathalyzer testing as directed by the United States Probation/Pretrial Services
20 Office.

1 8. Defendant shall refrain from obstructing or attempting to obstruct or
2 tamper, in any fashion, with the efficiency and accuracy of any prohibited
3 substance testing which is required as a condition of release.

4 9. Defendant shall participate in a program of GPS location monitoring.
5 Defendant shall wear, at all times, an electronic device under the supervision of the
6 United States Probation/Pretrial Services Office. In the event Defendant does not
7 respond to location monitoring or cannot be found, the United States
8 Probation/Pretrial Services Office shall forthwith notify the United States Marshals
9 Service, who shall immediately find, arrest and detain Defendant. Defendant shall
10 pay all or part of the cost of the program based upon ability to pay as determined
11 by the United States Probation/Pretrial Services Office.

12 10. Defendant shall be restricted to his residence at all times except for:
13 attorney visits; court appearances; case-related matters; court-ordered obligations;
14 or other activities as pre-approved by the United States Probation/Pretrial Services
15 Office or supervising officer, including but not limited to employment, religious
16 services, medical necessities, substance abuse testing or mental health treatment.

17 DATED May 11, 2020.

18 s/Mary K. Dimke
19 MARY K. DIMKE
20 UNITED STATES MAGISTRATE JUDGE